

## **REMARKS**

Favorable reconsideration of this application in light of the following elections remarks is respectfully requested.

No claims having been cancelled or added, the Applicants respectfully submit that claims 1-22 remain pending in this application.

### **Restriction Requirement**

The Examiner is requiring restriction of one of the following two inventions:

- I. Claims 1-10, drawn to a semiconductor device, classified in class 257, subclass 303; and
- II. Claims 11-22, drawn to a process of making a semiconductor, classified in class 438, subclass 22+.

### **Applicants' Election of Invention**

In response to the Examiner's restriction requirement, Action at 2, the Applicants elect, the claims of Group I, specifically claims 1-10, drawn to a semiconductor device for prosecution in this application. The Applicants specifically reserve the right to file a divisional application directed to non-elected claims 11-22.

**Species Restriction**

The Examiner is also requiring an election of species between the embodiment illustrated in FIGS. 2 and 3A-3F and the embodiment illustrated in FIGS. 4A-4D. Action at 3.

**Applicants' Species Election**

In response to the Examiner's restriction requirement, Action at 3, the Applicants elect, with traverse, the species illustrated in FIGS. 4A-4D, for prosecution in this application. The Applicants further contend that at least claims 1, 2, 5-9, 11-13 and 17-22 are generic to both of the identified species and are, therefore, "readable" on the elected species. Further, the Applicants respectfully contend that the difference between the two embodiments, as reflected in dependent claims 3, 4, 10 and 14-16, is the simultaneous formation of a landing structure in the cell region with essentially the same process steps used to form the first metal wiring in the peripheral regions. The Applicants respectfully contend that this difference, while sufficient to render the embodiments patentably distinct, would not present any undue burden on the Examiner if both species were examined simultaneously.

The Applicants respectfully contend, therefore, that under the provisions of 37 C.F.R. § 1.141, that these two closely related embodiments do "not to exceed a reasonable number," that the two embodiments are "specifically claimed in different claims in one national application," that the application "also includes an allowable claim generic to all the claimed species" and that the claims to the second species "are written in dependent form." The Applicants respectfully contend, therefore, that the claims of the present application are squarely within the provisions of

37 C.F.R. § 1.141, and that this species election should be withdrawn and the claims drawn to the two embodiments examined together.

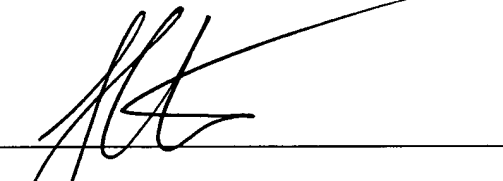
For all of the above stated reasons, reconsideration and withdrawal of the pending species election requirements and favorable action on the elected claims in the instant application are earnestly solicited by the Applicants.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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